

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 15-60765

United States Court of Appeals
Fifth Circuit

FILED

June 8, 2016

Lyle W. Cayce
Clerk

THOMAS E. PEREZ, SECRETARY, DEPARTMENT OF LABOR,

Plaintiff

v.

HERBERT BRUISTER

Defendant

VINCENT SEALY,

Plaintiff - Appellee

v.

HERBERT C. BRUISTER; BRUISTER FAMILY L.L.C.,

Defendants - Appellants

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:13-CV-1001
USDC No. 3:13-CV-1081

Before DAVIS, JONES, and GRAVES, Circuit Judges.

No. 15-60765

PER CURIAM:*

This is the attorneys' fees portion of a substantial ERISA liability case. *See Perez v. Bruister*, ---F.3d---, 2016 WL 2343009 (5th Cir. 2016). The district court awarded fees and costs pursuant to ERISA § 502(g)(1), 29 U.S.C. § 1132(g)(1), to attorneys representing plaintiff Sealy. The fee award is joint and several against all "Defendants," which, in the Sealy litigation, included BFLLC. On appeal, it is argued, for the first time, that BFLLC could not have an award of attorneys' fees rendered against it, or alternatively, that the district court mistakenly included BFLLC because plaintiffs' fee motion did not seek such an award. It is further argued that the private party attorneys should not be compensated because they added no value to litigation carried out by the Department of Labor.

We have reviewed these contentions in light of the briefs, pertinent portions of the record, and the oral arguments. The arguments concerning BFLLC are waived and unreviewable by this court. *See In re Lothian Oil Inc.*, 650 F.3d 539, 542 (5th Cir. 2011); *see also Perez v. Bruister*, 2016 WL 2343009 at *16 n.31; *Wright v. Excel Paralubes, Inc.*, 807 F.3d 730, 736 (5th Cir. 2015). The further argument against awarding fees is contrary to the district court's findings of fact, which are not clearly erroneous. The fee award judgment is **AFFIRMED**.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.